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Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
Review of the Commission's Regulations) MM Docket No. 91-221
)
Governing Television Broadcasting)

COMMENTS of the JET BROADCASTING CO., INC.

PRELIMINARY STATEMENT

Comments of this respondent are responsive to Section VI, **Radio-Television Crossownership Rule**, paragraphs 22 through 28 of the Notice of Proposed Rule Making adopted May 14, 1992 (Released June 12, 1992).

INTRODUCTION

The JET Broadcasting Co., Inc. is licensee of Television Broadcast Station WJET-TV, UHF, Channel 24, Erie, Pennsylvania, and Frequency Modulation Station WJET(FM) 102.3mHz (Class A) Erie, Pennsylvania.

WJET-TV was established by JET Broadcasting in 1966, and is a primary affiliate of the American Broadcasting Company (ABC). WJET(AM) was established by JET Broadcasting in 1951. In 1986, pursuant to authority of the Commission, the Class IV, WJET(AM) facility was transferred to a minority group, simultaneous with JET

The "one to a market" rule was waived upon the public interest consideration involved in making the AM facility available to the first minority owner in Erie, Pennsylvania, and with consideration of the fact that a facility of like size was "substituted" under the Commission's "grandfather" concept.

Erie, Pennsylvania, ranked by Nielsen as the nation's 140th television market, is a mixed market with a VHF station WICU-TV (Ch 12-NBC), established in 1948, and UHF Stations WSEE (Ch 35-CBS); WJET-TV (Ch 24-ABC); and WETG (Ch 66-Fox). In addition to the four commercial television stations, the Erie market is served by a Public Broadcasting Station WQLN (Ch 54). All the aforenoted television stations are licensed to Erie, the central city of a one-county MSA (Erie County).

The four-county Erie ADI, ranked as the nation's 140th, contains 150,700 households. A total of 19 radio stations operated by 16 licensees, are licensed to various communities in the Erie ADI. Within the MSA population are 12 stations; ten of these stations place 1MV FM, or 2MV AM signals over all the City of Erie. There is in addition, a public radio station (WQLN-FM 91.3, 35kw), licensed to Erie, Pennsylvania.

Cable television systems operated by Time Warner's Erie Cablevision and TCI serve most of the Erie MSA. Cable penetration of the 100,400 households within the Erie MSA (Erie County) is 65%. Other smaller cable systems extensively serve the remaining three counties of the Erie ADI, with penetration of the 31,300 households of Crawford County at 58%. For Warren County, cable penetration is 67% of its 16,700 households, and for Forest County, cable penetration is 40% of its 1,900 households.

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ONE TO A MARKET RULE NO LONGER NECESSARY

JET Broadcasting wholeheartedly welcomes the Commission's proposal as stated in Paragraph 27 of the Proposed Rule Making; that its local ownership rules alone may be sufficient to assure competitive and diverse radio and television markets. We believe the Erie Market and the experience of this respondent may represent a useful example. JET Broadcasting is and has been a "grandfathered" exception to the one-to-a-market rule. As noted in the foregoing introductory paragraph, JET Broadcasting had an Erie Market radio facility many years before establishing WJET-TV in 1966. This occurred prior to enactment of the one-to-a-market rule. Erie was then considered by knowledgeable television authorities to be a two and a half station market, especially considering it was a mixed market. The one UHF station (with newspaper ownership) had consistently lost money, and ABC was by far the weakest of the three networks. Neither banks nor equipment manufacturers were interested in financing a third UHF television station. Only the pledge of assets and profits of WJET(AM) radio enabled the necessary financing. With the help of its successful radio station, JET was able to (after nearly a decade of struggle) develop WJET-TV to a point where we were reasonably sure of staying in business. We could sense, however, by 1976, that the days of help from our radio station were numbered, as competition from large FM facilities began to erode the AM radio audience. We attempted then, to acquire a small failing FM facility, to be operated profitably using the economies of scale available with combining an FM and a television station in the same building with common management.

Appropriate arguments were made to the Commission over an extended period, culminating in our request for waiver of the one-to-a-market rule being denied in 1977. Fortunately, a great resurgence of the ABC television network came shortly thereafter, enabling continued progress for WJET-TV. Ten years later, in 1987, and at a much greater acquisition cost, a new proposal was made to the Commission to acquire the same facility, still faultering under new owners about to declare bankruptcy. JET proposed transfer of our AM station to a local minority group, if it could be permitted to "substitute" a Class A, FM facility. The Commission granted this proposal in 1986.

JET made the FM facility a success within less than a year. A great many economies of scale were not maximized at that time. because separately located radio studios were available. The wheels of fortune change, however. Now JET's FM station is no longer successful, given intense competition with a move-in, through upgrading of a perimeter station and a new 80/90 allocation (now upgraded to Class B). We now plan to integrate the radio and television facilities to maximize economies of scale, with hopefully an eventual improvement to the service of each station.

Given the intense competition in both the aural and visual services, we firmly believe the Commission has focused on the problem in the best way possible within the structure of our freely competitive system of broadcasting. The local numerical limits provide a significant safeguard against one licensee acquiring a substantial market share in either TV, AM or FM. We trust that television licensees desiring to acquire radio properties, be availed of the same opportunities as the radio licensees.

ECONOMIES OF SCALE MORE IMPORTANT IN MEDIUM AND SMALLER MARKETS

The Commission notes its recognition of the value inherent in economies of scale in the top 25 markets.[1/] JET has experienced some of these economies in its operation, and in its planning has revealed considerably more advantages with a combining of radio and TV facilities in the same building. We shall not burden this comment with all the pertinent detail, except to note that the economies for smaller markets are of much greater relevance, given the great disparity in available revenues between top 25 market stations and those in the medium and smaller markets. As an example, costs of capital equipment, telephone and electric power do not change significantly between large, medium and small markets. Employee cost is usually higher in large markets, as compared to medium and small markets; however, this disparity bears little relationship to the revenue gap between the different sized markets. Moreover, with joint television-radio operations there is the ability to provide greater rewards to talent adaptable to both the visual and aural mediums, a really valuable asset in smaller markets where it is difficult to retain talented personnel who can find greater rewards in larger markets. An additional advantage is the ability to provide dual use of costly computer equipment, which will likely make possible lease or purchase of equipment not affordable to either station alone in many cases. All of this eventually flows to the benefit of the viewing and listening public.

1/ Economies of scale will be even more necessary in medium and small television markets, as the networks move toward a goal of eliminating network compensation to affiliates. In small markets, the network comp can be the difference between profit and loss.

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An additional and very important opportunity for greater service to the listening public, is the ability for a combined television-radio facility to greatly advantage local programming, particularly news coverage. In Erie for instance, our station is the only FM facility to offer news hourly throughout the day. News is provided by our television news personnel. Both WJET-TV and WJET(FM) broadcast on a twenty-four-hour basis, seven days a week; accordingly, there is an instant news watch available to the radio station with television personnel. This is only possible through the economies inherent in our common ownership. The quality and scope of radio news and other public service programs, results from the depth of personnel and other resources available from the television news department. An example of other public interest programs is the Jerry Lewis Telethon for MDA, a joint TV-radio endeavor for a great many years. The Erie Market ranks among the highest in per capita gifts to MDA. The JET Broadcasting stations have been honored many times for their contribution to this success. Only healthy stations have the means and inclination to promote public interest through quality local programming and expanded news services.

COMPETITION MORE INTENSE, NUMBER OF VOICES PROPORTIONATELY GREATER IN MEDIUM AND SMALLER MARKETS

Perusal of James Duncan's American Radio (Fall 1991 edition) reveals the vast disparity in persons per station and revenue per station in large markets, as compared to medium and smaller markets. As an example, the nation's number one ADI, New York City, has thirty-five rated stations, while the Erie ADI has twelve rated stations. More interesting is the number of program format choices. New York has 18-20, depending upon subjective interpretation, while Erie has 10-11, again depending upon subjective interpretation. When program formats devoted to minority groups representing sizeable percentages of the New York population, but not available in Erie in sufficient numbers to sustain any viable media is not very great. Admittedly, however, listeners in New York have a far greater number of choices in a given format. While there may not be so many "different" voices among the smaller and medium markets, the need is not nearly so great. In general, these markets are not nearly so diversified as in the truly large markets. Competition and diverse points of view thrive in medium and smaller markets in proportion to the need.

NO DEMONSTRABLE NEED FOR ALTERNATIVE PROPOSALS

The Commission suggests several alternative proposals of a more restrictive nature. This respondent believes the Commission's first proposal will best serve the public interest.

The record is clear that economies of scale are valuable toward enabling continued health for the nation's aural and visual terrestrial services. The proposed restrictions will serve to limit the possibilities, which tend to be different from market to market. For instance, a small market television station may be materially strengthened with the addition of two FM facilities, and in the bargain may strengthen a floundering AM station. The new radio rules are the best answer in dealing with economic problems arising from over population that are different from market to

Finally, we believe there is no need for, or particular value in 30 independent voices from our terrestrial broadcast system. Every market has a multiple of independent voices via the wired services, and will soon have others through direct to home satellite transmissions. Healthy broadcast stations will have the resources and are most inclined to render a valuable locally oriented program service in all size markets. The new radio rules are sufficient to protect the public interest from undue concentration of ownership in all size markets.

CONCLUSION

JET Broadcasting heartily endorses, and indeed will welcome the Commission's proposal to further relax the "one to a market rule", allowing television licensees in every size market to own and operate FM and AM radio stations in the same market, subject to the ownership limitations contained within the new radio ownership rules.

Our belief that the time has come to essentially abolish the prohibition of joint radio ownership is based upon experience in operating several radio stations and one television station for more than twenty-five years. Television and radio are really very different businesses. Television is a composite individual program-based medium, while radio is a life-style medium designed to conform to a selected program format. The transference of a common viewpoint between the visual and aural medium is virtually non-existent among the "grandfathered" TV-radio combinations with which we are familiar. We believe the inherent likelihood of a common viewpoint between radio and television is reduced to a very small factor, based upon the way stations are currently operated, given the intense competitive pressures in today's market place, which continue to intensify. The benefits to the public from common ownership of visual and aural media to all-size markets can be quite substantial. In deciding to allow TV-radio combinations in top 25 markets, and in its far-reaching rules change for radio operation, the Commission has duly noted public interest values inherent in stronger broadcast entities and the often substantial economies of scale arising from joint operation, be it multiple radio stations or radio-television combinations.

We find these factors even more applicable to the smaller television markets, in view of the much smaller revenues available, and keeping in mind the vast expenditures necessary in television. The result can be an important enhancement of radio station operations with respect to marketing, sales, and promotional activities.

There exists serious concern among medium and small market television licensees for the large funds necessary to facilitate high-definition television, where substantial investments will very likely be necessary within this decade. The larger entities resulting from TV-radio combinations may, in some cases, become the deciding factor for implementation of this advanced art. And there is little doubt this decade will see even greater competition to conventional terrestrial television with further growth of the cable industry enhanced by fiber optics, and with telephone companies as an additional entity.

unavailable, will erode as wireless cable services expand and telephone company participation provides expansion of wired television service. This impacts as well, and perhaps to an even greater extent in the medium and smaller markets, since cable systems tend to be fully as extensive in these markets as in the largest major markets, and often have greater penetration. Erie, for example, will soon have a 100-plus channel, fiber optics cable system. All large cable systems and many of the smaller systems in the Erie ADI, sell advertising as an important source of revenue, and are competitive with both radio and television stations in the area.

For terrestrial television, the coming decade will be enormously challenging, hence a more level playing field between TV-radio, and the cable services will be necessary if our basic "free" system of broadcasting is to endure. Larger more secure entities is one answer -- joint television-radio combinations will be a help to that goal.

In light of the above, JET Broadcasting lends its most enthusiastic support to full elimination of its current radio-TV one to a market, cross ownership prohibition.

Respectfully submitted,

THE JET BROADCASTING CO. INC.

Myron Jones

MYRON JONES
Chief Executive Officer